IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Bail Appl..No. 4739 of 2007()

CRIME NO. 349/07 OF TANUR POLICE STATION

PETITIONER :1ST ACCUSED:

ANKATTIL FAISAL, S/O.SAIDALAVI,
AGED 28, ANKATTIL HOUSE, RAYIRAMANGALAM AMSOM
DESOM, P.O.TANUR, MALAPPURAM DISTRICT.

BY ADV. SRI.HARISH R. MENON
SRI.K.T.SHYAMKUMAR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4739 of 2007

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Dated this the 8th day of August, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Sections 324 and 308 r/w. 34 I.P.C. The defacto complainant claims to be a social activist and a reporter of a local daily. In the daily, a news item appeared, which spoke about the strained relationship between the petitioner and his wife. Infuriated by such report which had appeared, the petitioner allegedly attacked the defacto complainant with an iron rod from behind at 9.30 p.m. on 3.7.2007. Four others were also allegedly present along with the petitioner. The miscreants ran away after the injury was inflicted on the defacto complainant. Another witness had seen the petitioner running away from the scene of the crime along with the others. Crime has been registered. The petitioner is named in the F.I.R. The other persons who were allegedly present along with the petitioner are not named. Recovery of the weapon has already been effected. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The petitioner is a person, who has attempted to extract money from the local people pretending to be a social activist. The allegations are false. The offence under Section 308 I.P.C. has been included with the deliberate intention of vexing and harassing the petitioner. The nature of the injury shows that it was a simple injury. In these circumstances the inclusion of the allegation under Section 308 I.P.C. must arouse suspicion. In any view of the matter, anticipatory bail may be granted to the petitioner, it is prayed.

3. The application is opposed by the learned Prosecutor. He submits that the identity of the co-accused has not been ascertained so far. Custodial interrogation of the petitioner is absolutely necessary. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. Having considered all the relevant inputs, I find merit in the opposition raised by the learned Prosecutor. Of course, the learned counsel is correct in his submission that the injury suffered is not very serious or grievous. The wound certificate clearly shows that the injury is a lacerated

injury on the occipital area of scalp. Specific allegation was raised that the beating was done with an iron rod. I am of the opinion that this is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I find no features in this case to invoke the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioner.

6. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the Investigating Officer or the learned Magistrate having jurisdiction and then seek bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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